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Message Text

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PAGE 01 STATE 051863

46
ORIGIN EB-11

INFO OCT-01 EUR-25 ADP-00 L-03 SS-14 INR-09 EA-11 H-02

RSC-01 INRE-00 /077 R

DRAFTED BY EB; JLKATZ/ HMH
3/21/73 EXT 20396
APPROVED BY EB: JLKATZ
L/ EB - MR. MUIR
L - MR. FELDMAN
---------- 113241
P R 211829 Z MAR 73
FM SECSTATE WASHDC
TO USMISSION EC BRUSSELS PRIORITY
AMEMBASSY BRUSSELS PRIORITY
AMEMBASSY LONDON PRIORITY
INFO AMEMBASSY PARIS
AMEMBASSY BONN
AMEMBASSY ROME
AMEMBASSY THE HAGUE
AMEMBASSY LUXEMBOURG
AMEMBASSY TOKYO
AMCONSUL DUSSELDORF

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STADIS//

E. O. 11652 N/ A
BRUSSELS FOR CASEY
TAGS: EMIN, ETRD
SUBJECT: STEEL VRA
REF: LONDON 03261

FOLLOWING IS EXCHANGE LETTERS WITH SENATOR HART
REFERRED SEPTEL.

1. LETTER FROM SENATOR HART TO SECRETARY ROGERS FOLLOWS:

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QTE FEBRUARY 16, 1973. DEAR MR. SECRETARY: LAST MAY, I WROTE YOU EXPRESSING CONCERN ABOUT THE SO- CALLED QTE VOLUNTARY RESTRAINT ARRANGEMENTS ON STEEL QTE ENTERED INTO BY CERTAIN FOREIGN STEEL COMPANIES AS A RESULT OF NEGOTIATIONS INITIATED BY YOU AT THE PRESIDENT' S DIRECTION. SINCE THAT TIME, ON JANUARY 8, 1973, THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA HAS ISSUED A MEMORANDUM, OPINION, DECLARATION AND ORDER IN CONSUMERS UNION OF THE UNITED STATES, INC. V. WILLIAM P. ROGERS, SECRETARY OF STATE, ET AL. C. A. 1029.

AS I READ THAT OPINION, JUDGE GESELL MAKES TWO POINTS. FIRST, THAT THERE IS NOTHING IN THE TRADE EXPANSION ACT OF 1962 THAT MAKES ITS PROCESS EXCLUSIVE OR WHICH

LATER STATUTE TAKE AWAY THAT RIGHT OF ACTION. THE BASIC RULE WAS STATED IN 1801 BY CHIEF JUSTICE MARSHALL THAT QTE IF . . . BEFORE THE DECISION OF THE APPELLATE COURT, A LAW INTERVENES AND POSITIVELY CHANGES THE RULE WHICH GOVERNS, THE LAW MUST BE OBEYED, OR ITS OBLIGATION DENIED QTE. ALTHOUGH IT IS DOUBTFUL CONGRESS COULD SIMPLY EXTINGUISH RIGHTS WHICH MIGHT BE VESTED AS A RESULT OF A FINAL JUDGMENT IN A TREBLE DAMAGE SUIT, WE ARE NOT AWARE OF ANY TREBLE DAMAGE SUIT FILED AGAINST THE FOREIGN PRODUCERS. EVEN IF A SUIT WERE FILED TODAY, A FINAL JUDGMENT WOULD PROBABLY NOT BE ENTERED FOR ANOTHER THREE TO FIVE YEARS. ATTORNEYS FOR BSC AND KRUPP CONCEDED THAT THEIR LEGAL RESEARCH HAD CONFIRMED THIS OPINION BUT EXPRESSED CONCERN THAT SOME COURT COULD REVERSE THIS DOCTRINE. WE BELIEVED THIS CONCERN EXAGGERATED AND UNREASONABLE.

3. WE UNAWARE ANY LETTER FROM SENATOR HARTKE AND WONDER WHETHER LAUGHTON HAS IN MIND EXCHANGE LETTERS WITH SENATOR HART. THIS EXCHANGE WHICH BEING TRANSMITTED SEPARATELY IN NO WAY ALTERS OUR VIEWS ON CORRECTNESS OUR APPEAL OR ON OUR ESTIMATE OF CHANCES FOR LEGISLATION IF NECESSARY.

4. AGREE IT WOULD BE HIGHLY DESIRABLE FOR UNDER LIMITED OFFICIAL USE

SECRETARY CASEY AND ASSISTANT SECRETARY ARMSTRONG

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MEET WITH BSC OFFICIALS DURING LONDON VISIT.
HOPEFULLY DURING SUCH VISIT MELCHETT CAN BE PERSUADED
THAT WE DOING ALL THAT IS REASONABLE POSSIBLE TO
MEET THEIR CONCERNS ABOUT LIABILITY THROUGH OUR
APPEAL AND COMMITMENT TO SEEK LEGISLATION AFTER
COURT DECISION.

5. FOR CASEY AND ARMSTRONG. IN MEETING MARCH 15 WITH
NELSON STITT, ATTORNEY FOR JAPANESE, WILBUR MILLS
STATED THAT IT WOULD BE GREAT MISTAKE SEEK LEGISLATION
PRIOR TO DECISION BY COURT OF APPEALS. HE CONFIRMED
TO STITT AN EARLIER STATEMENT THAT HE WOULD STRONGLY
SUPPORT LEGISLATION IF THIS SHOULD BE NECESSARY
AS A RESULT COURT DECISION. HE SUGGESTED AS
ALTERNATIVE POSSIBILITY INSERTING PROVISION IN TRADE BILL
DURING COMMITTEE CONSIDERATION
IF THIS SEEMED DESIRABLE AT THAT TIME AND WOULD NOT
INTERFERE WITH APPELLATE PROCESS. ROGERS

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*** Current Classification *** LIMITED OFFICIAL USE

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 21 MAR 1973
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: garlanwa
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE051863
Document Source: CORE
Document Unique ID: 00
Drafter: HMH
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Film Number: n/a
From: SECSTATE WASHDC
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730335/aaaaidnm.tel
Line Count: 137
Locator: TEXT ON-LINE
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: STADIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: garlanwa
Review Comment: n/a
Review Content Flags:
Review Date: 26 JUL 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26-Jul-2001 by izenbei0>; APPROVED <06-Sep-2001 by garlanwa>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> srp 971218
Subject: STEEL VRA
TAGS: EMIN, ETRD, n/a
To: BRUSSELS
EC BRUSSELS
LONDON INFO BONN
DUSSELDORF
LUXEMBOURG
MULTIPLE
Type: TE

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